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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/723,859

11/26/2003

Gobal B. Avinash

139943/YOD GEMS:0256

9691

68174

7590

07/08/2009

GE HEALTHCARE

c/o FLETCHER YODER, PC

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EXAMINER

MEHTA, PARIKHA SOLANKI

ART UNIT

PAPER NUMBER

3737

MAIL DATE

DELIVERY MODE

07/08/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* GOBAL B. AVINASH and PRATHYUSHA K. SALLA

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Application No. 10/723,859  
Technology Center: 3700

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Mailed: July 8, 2009

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Before GLORIA HENDERSON, *Review Team Paralegal*  
HENDERSON, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on June 29, 2009. A review of the application has revealed that the application is not ready for docketing as an appeal.

Accordingly, the application is herewith being returned to the examiner.

The matter(s) requiring attention prior to docketing are identified below.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

On July 14, 2008, a PTOL-901, in the form of a Supplemental Examiner's Answer was mailed in response to a Reply Brief filed on June 27, 2008.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

The Communication mailed July 14, 2008, was an improper acknowledgment of the Reply Brief, as it constitutes a Supplemental Examiner's Answer as per MPEP§ 1208, part II. A Supplemental Examiner's Answers requires a Director or designees approval.

MAIL RETURNED TO USPTO

Further, on December 30, 2008, the Examiner's Answer that was mailed on April 29, 2008 was scanned into the IFW file as "Mail Returned to USPTO as undelievered." Appropriate correction is required for clarification of the record.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) vacate the Communication mailed July 14, 2008;
- 2) generate and mail either:
  - a) a revised Communication properly acknowledging to the Reply Brief dated December 30, 2008, in accordance with MPEP§ 1208, part II.; or
  - b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate;
- 3) mail a copy of the Examiner's Answer to Applicants; and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

GJH

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